

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DAWNELL BATES,	§	No. 1:25-CV-00003-DAE
	§	
<i>Plaintiff,</i>	§	
	§	
vs.	§	
	§	
LOUIS DE JOY, POSTMASTER	§	
GENERAL, U.S. POSTAL SERVICE,	§	
	§	
<i>Defendant.</i>	§	

ORDER ADOPTING REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE AND DISMISSING CAUSE OF ACTION

Before the Court is a Report and Recommendation (“the Report”) (Dkt. # 5) submitted by United States Magistrate Judge Dustin M. Howell. After reviewing the Report, the Court **ADOPTS** Judge Howell’s recommendations and **GRANTS** Plaintiff Dawnell Bates’s (“Plaintiff”) Application to Proceed *In Forma Pauperis*. (Dkt. # 2), **DISMISSES** Plaintiff’s cause of action **WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B), and **DISMISSES AS MOOT** Plaintiff’s remaining pending motion for appointment of counsel. (Dkt. # 3.)

On January 2, 2025, Plaintiff filed her Complaint against Louis De Joy, Postmaster General, U.S. Postal Service (“Defendant”). (Dkt. # 1.) On the

same day, Plaintiff filed a Motion to Proceed *in forma pauperis* (Dkt. # 2) and a Motion to Appoint Counsel. (Dkt. # 3.) Judge Howell issued his Report and Recommendation on January 21, 2025. (Dkt. # 5.) The certified mail receipt of the Report and Recommendation was filed on January 30, 2025. (Dkt. # 7.)

The facts preceding this Order are laid out in Judge Howell's Report. (See Dkt. # 5.) In his Report, Judge Howell determined Plaintiff is indigent and should be granted leave to proceed in forma pauperis. (Id. at 1.) Judge Howell then conducted a 28 U.S.C. § 1915(e) review of the claims made in the complaint and recommended that Plaintiff's claims be dismissed. (Id. at 2.) Specifically, Judge Howell found that Plaintiff failed to state an employment-discrimination claim under Title VII because she failed to plead that she was qualified for her job as a rural mail carrier or subject to an adverse employment action because of her membership in a protected class. (Id. at 4.) Judge Howell also found that to the extent Plaintiff intended to bring a hostile-work-environment claim under Title VII, she failed to allege that any of her work colleague's harassment "was based on a protected class," such as Plaintiff's race or color. (Id. at 5, n.1.)

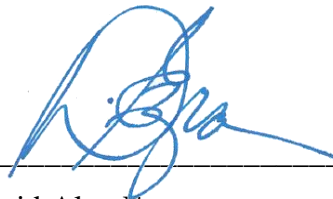
Objections to the Report were due within 14 days after being served with a copy. Where, as here, none of the parties objected to the Magistrate Judge's findings, the Court reviews the Report for clear error. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989). After careful consideration, the Court adopts the

Magistrate Judge's Report. The Court finds the Magistrate Judge's conclusion that Plaintiff's claims should be dismissed is neither clearly erroneous nor contrary to law.

Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation (Dkt. # 5) as the opinion of the Court and **GRANTS** Plaintiff's Application to Proceed *In Forma Pauperis*. (Dkt. # 2), **DISMISSES** Plaintiff's cause of action **WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B), and **DISMISSES AS MOOT** Plaintiff's remaining pending motion for appointment of counsel. (Dkt. # 3.) The Clerk is **INSTRUCTED TO CLOSE THE CASE**.

IT IS SO ORDERED.

DATE: Austin, Texas, February 19, 2025.



David Alan Ezra
Senior United States District Judge